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SUBJECT: LABOR CONFEDERATIONS CRITICIZE GOC'S LABOR REFORM
PACKAGE

REF: A. BOGOTA 4860
[1](#)B. BOGOTA 8662

SUMMARY

[1](#)1. (U) Colombia's three main labor confederations criticized the GOC's labor reform package which is pending in Congress. The unions applauded the proposed transfer of authority for declaring whether a strike is legal from the executive to the judiciary, but said the two bills (Legality of Strikes Bill and the Cooperatives Bill) not not go far enough to address labor rights. The AFL-CIO-affiliated Solidarity Center also thinks the package could do more to advance workers' interests. In informal discussions, the International Labor Organization (ILO) representative in Colombia called the legislation a "step forward". The bills should pass before the Congressional term ends on June 20. End summary.

LEGISLATION UNDER CONSIDERATION

[1](#)2. (U) As noted in reftel, the GOC's labor reform package--which consists of the Legality of Strikes and the Cooperatives bills--would transfer authority for declaring whether a strike is legal from the executive to the judiciary; make binding arbitration, if requested by one of the parties, mandatory after a strike has lasted 68 days instead of the current 60 days; require workers' cooperatives to pay into the social security benefits programs; and increase fines for cooperatives that do not comply with current laws.

[1](#)3. (SBU) Social Protection Minister Diego Palacio confirmed the current bill has language providing for obligatory arbitration at the request of one party after a strike has lasted 68 days. Still, he said MSP has a deal with pro-GOC legislators to amend the language to provide for mandatory arbitration only at the request of both parties. Business leaders fear eliminating the mandatory arbitration provision could lead to business closures, since Colombian law prohibits workers from returning to work if a strike is ongoing -- even if they want to do so.

LABOR CONFEDERATION CONCERNS

14. (U) Colombia's three main labor confederations voiced disappointment with the proposed legislation. They agreed the transfer of authority to rule on the legality of strikes from the executive to the judiciary was positive, but they want the Constitutional Court to make the determination rather than local judges, as stipulated in the current bill. They claim local judges are more susceptible to "outside influence" and would not be objective. If unsuccessful in obtaining the Constitutional Court as the appropriate forum, they want a clear appeals process set up.

15. (U) The labor confederations say the payment of social security and benefits programs by cooperatives was never their issue. They charge that the Cooperatives Bill does not address employer abuse of cooperatives to circumvent worker rights and limit unionization, arguing that tighter enforcement of existing legislation requiring cooperatives to be worker owned and managed would be a more effective solution. The confederations claim the GOC's proposed bill would legitimize "false" cooperatives and cut workers' net salaries.

16. (U) The confederations assert that the reform package also does not address their longstanding complaint that the GOC interprets a legislative ban on strikes by "essential public services" in an overly expansive way. They claim the lack of legislative clarity leads courts to "paint with too wide of a brush" when determining what public sectors cannot strike. For example, Apecides Fernandez, President of the CTC (Confederacion de Trabajadores de Colombia) stated the administrative offices in the public health sector should be allowed to strike, even if doctors and nurses are required to report to duty.

GOC UNION CONSULTATIONS

17. (SBU) The Ministry of Social Protection (MSP) invited the three confederations to discuss the legislation before presenting the bills to congress. The ILO representative confirmed that two of the three confederations, the CTC and the CUT, refused the invitation and have subsequently charged that there was no GOC dialogue with labor before the bills were sent to Congress.

OUTSIDE PERSPECTIVES

18. (U) Rhett Doumitt of the AFL-CIO affiliated Solidarity Center agreed with the labor confederations' criticisms. In addition, he said the bill should allow workers to form sector-wide unions, and that they should be allowed to negotiate directly with employers. Currently, under Colombian law these types of negotiations are not allowed. He said that collective bargaining is the only situation in which workers are legally permitted to strike. He thinks workers should be allowed to strike in other situations, such as in the case of massive layoffs.

19. (SBU) In informal comments, Marcelo Castro Fox, the local ILO representative, said the labor reform package was a "step forward" for the GOC and labor rights in Colombia. He added that there are no ILO conventions that are at odds with the mandatory arbitration provision in the proposed labor legislation, but said the unions' complaints regarding the appeal issue and the need for a definition of essential public services are valid. Castro said President Uribe and other GOC officials are "exceptionally accessible" to the confederations, and praised the GOC's protection programs for labor unionists and other at-risk individuals.

STATUS IN CONGRESS

¶10. The Cooperatives Bill (144) has passed in the commission debates in both houses, and is pending a floor hearing in the House and Senate (both houses). The commission debates on the Legality of Strikes Bill(190) have not taken place yet. Both of these bills will likely pass between late March and June 20, when the Congressional term ends.
Brownfield